



STATE OF MISSOURI  
OFFICE OF ADMINISTRATION  
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT (DPMM)  
REQUEST FOR PROPOSAL (RFP)

RFP NO.: B1Z07072

TITLE: Inserter Based Digital Meters

ISSUE DATE: 09/27/06

REQ NO.: N/A

BUYER: Tammy Michel

PHONE NO.: (573) 751-3114

E-MAIL: tammy.michel@oa.mo.gov

RETURN PROPOSAL NO LATER THAN: 10/12/06 AT 2:00 PM CENTRAL TIME

MAILING INSTRUCTIONS: Print or type **RFP Number** and **Return Due Date** on the lower left hand corner of the envelope or package. Delivered sealed proposals must be in DPMM office (301 W High Street, Room 630) by the return date and time.

(U.S. Mail)	or	(Courier Service)
RETURN PROPOSAL TO: DPMM		DPMM
PO BOX 809		301 WEST HIGH STREET, RM 630
JEFFERSON CITY MO 65102-0809		JEFFERSON CITY MO 65101

CONTRACT PERIOD: Date of Award Through One Year

DELIVER SUPPLIES/SERVICES FOB (Free On Board) DESTINATION TO THE FOLLOWING ADDRESS:

DSS/Div. of General Services  
Mail Center  
2724 Merchants  
Jefferson City, MO 65109

Department of Revenue  
Truman State Office Bldg.  
301 West High Street, Rm 102  
Jefferson City, MO 65105

Dept. of Labor and Industrial Relations  
421 East Dunklin  
Jefferson City, Missouri 65104

The offeror hereby declares understanding, agreement and certification of compliance to provide the items and/or services, at the prices quoted, in accordance with all requirements and specifications contained herein and the Terms and Conditions Request for Proposal (Revised 02/10/06). The offeror further agrees that the language of this RFP shall govern in the event of a conflict with his/her proposal. The offeror further agrees that upon receipt of an authorized purchase order from the Division of Purchasing and Materials Management or when a Notice of Award is signed and issued by an authorized official of the State of Missouri, a binding contract shall exist between the offeror and the State of Missouri.

SIGNATURE REQUIRED

DOING BUSINESS AS (DBA) NAME		LEGAL NAME OF ENTITY/INDIVIDUAL FILED WITH IRS FOR THIS TAX ID NO.	
MAILING ADDRESS		IRS FORM 1099 MAILING ADDRESS	
CITY, STATE, ZIP CODE		CITY, STATE, ZIP CODE	

  

CONTACT PERSON		EMAIL ADDRESS	
PHONE NUMBER		FAX NUMBER	
TAXPAYER ID NUMBER (TIN)	TAXPAYER ID (TIN) TYPE (CHECK ONE) <input type="checkbox"/> FEIN <input type="checkbox"/> SSN	VENDOR NUMBER (IF KNOWN)	
VENDOR TAX FILING TYPE WITH IRS (CHECK ONE) <input type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> State/Local Government <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Other			
AUTHORIZED SIGNATURE		DATE	
PRINTED NAME		TITLE	

## **1. INTRODUCTION AND BACKGROUND**

### **1.1 Purpose:**

- 1.1.1 This document constitutes a request for sealed proposals from prospective offerors to establish a contract for inserter based digital meters compatible with Bowe Bell & Howell Mail Star systems for the Department of Social Services, Department of Revenue and Department of Labor and Industrial Relations in accordance with the requirements and provisions stated herein.
- 1.1.2 The inserter based digital meters shall support the equipment needs of the state agencies in accordance with specifications and requirements stated herein.

## **2. GENERAL CONTRACTUAL REQUIREMENTS**

### **2.1 Contract:**

- 2.1.1 A binding contract shall consist of: (1) the RFP, amendments thereto, and any Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor's proposal including any contractor BAFO response(s), (3) clarification of the proposal, if any, and (4) the Division of Purchasing and Materials Management's acceptance of the proposal by "notice of award" or by "purchase order". All Exhibits and Attachments included in the RFP shall be incorporated into the contract by reference.
- 2.1.2 A notice of award issued by the State of Missouri does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services for the State of Missouri, the contractor must receive a properly authorized purchase order unless the purchase is equal to or less than \$3,000. State purchases equal to or less than \$3,000 may be processed with a purchase order or other form of authorization given to the contractor at the discretion of the state agency.
- 2.1.3 The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein.
- 2.1.4 Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the Division of Purchasing and Materials Management or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

### **2.2 Contract Period:**

- 2.2.1 The original contract period shall be as stated on page 1 of the Request for Proposal (RFP). The contract shall not bind, nor purport to bind, the state for any contractual commitment in excess of the original contract period. The Division of Purchasing and Materials Management shall have the right, at its sole option, to renew the contract for two (2) additional one-year periods or any portion thereof for additional equipment acquisitions. In the event the Division of Purchasing and Materials Management exercise such right, all terms and conditions, requirements and specifications of the contract shall remain the same and apply during the renewal period, pursuant to applicable option clauses of this document.
- 2.2.2 The Division of Purchasing reserves the right, in addition to the above, to renew those portions of the contract necessary to provide parts, supplies and optional maintenance service for the equipment for two (2) additional one-year periods, or any portion thereof. In the event the Division of Purchasing and Materials Management exercises such right, all other terms and

conditions, requirements and specifications of the contract applicable to the above-referenced services shall remain the same and apply during the extension period(s) with the exception of price. Prices shall be mutually agreed upon in writing by both the contractor and the Division of Purchasing and Materials Management at the time the option is exercised and prior to the performance of any service under the option. In the event the Division of Purchasing and Materials Management exercise such right, all terms and conditions, requirements and specifications of the contract shall remain the same and apply during the renewal period, pursuant to applicable option clauses of this document.

### **2.3 Renewal Periods:**

- 2.3.1 If the option for renewal is exercised by the Division of Purchasing and Materials Management, the contractor shall agree that the prices for the renewal period shall not exceed the maximum percent of increase for the applicable renewal period stated on the Pricing Page of the contract.
- 2.3.2 If renewal percentages are not provided, then prices during renewal periods shall be the same as during the original contract period.
- 2.3.3 The Division of Purchasing and Materials Management does not automatically exercise its option for renewal based upon the maximum percent of increase and reserves the right to offer or to request renewal of the contract at a price less than the maximum percent of increase stated.

### **2.4 Ordering State Agencies:**

- 2.4.1 The State of Missouri requires that agencies coordinate all purchases of mail related equipment and software with the Office of Administration, Division of General Services.

### **2.5 Price:**

- 2.5.1 All prices shall be as indicated on the Pricing Page. The state shall not pay nor be liable for any other additional costs including but not limited to taxes, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.
- 2.5.2 The quoted discount for consumable supplies shall apply only to supplies the agencies may purchase for normal and routine operation of the inserter based digital meters. Repair parts, materials, and supplies necessary for routine repair and maintenance of equipment shall not be charged at the discounted list price; prices for these materials shall be considered part of the monthly maintenance price paid by the State.
- 2.5.3 The emergency service call price shall be an hourly price that shall commence once the contractor is on-site at the state agency location and shall accrue for the duration of the contractor's service call. Once the contractor's personnel has left the state agency site, the hourly price shall no longer be billable. The hourly price shall be prorated according to actual length of the on-site visit.

### **2.6 Supplies Pricing:**

- 2.6.1 The contractor shall apply the firm, fixed discount quoted on the contract Pricing Page for supplies purchased. The discount shall be applied to the current pricing in place at the time the order is placed. Pricing may vary for supplies during the life of the contract, however, the firm, fixed discount percentage shall remain the same throughout the duration of the contract.
- 2.6.2 The contractor's price list/catalog pricing may change during the contract period and each renewal period, although such pricing shall not change with a frequency greater than every twelve (12) months.

2.6.3 In the event that a price list/catalog lists more than one price for the same item, the applicable quoted firm, fixed discount shall be applied to the lowest listed price. The State of Missouri shall always receive the contractor's lowest price for the item.

2.6.4 The contractor shall furnish current price lists/catalogs or (with products clearly identified) to the state agency upon request. Price lists/catalogs shall also be provided to the state agency as the catalogs change and/or pricing is updated.

## **2.7 Prices Must Be Lowest:**

2.7.1 The contractor's prices must be the lowest offered to any governmental or commercial consumer, under the same terms and conditions.

## **2.8 Payment Terms:**

2.8.1 All payment terms shall be as stated in the Terms and Conditions of the contract (see paragraph 10, "Invoicing and Payment") unless otherwise addressed in the RFP, or mutually agreed to by the state and the contractor. Payment terms should be net 30 days unless otherwise stated in the RFP. No late charges shall be applied which are not in compliance with Chapter 34.055 RSMo. This statute may be found at <http://www.moga.state.mo.us/STATUTES/STATUTES.HTM>.

2.8.2 The contractor shall understand and agree the state reserves the right to make contract payments to the contractor through electronic funds transfer (EFT). Therefore, prior to any payments becoming due under the contract, the contractor must return a completed state Vendor ACH/EFT Application which is downloadable from the following website: <http://www.oa.mo.gov/purch/vendorinfo/vendorach.pdf>. Each contractor invoice must contain a unique invoice number. The invoice number will be listed on the state's EFT addendum record to enable the contractor to properly apply state payments to invoices. The contractor must comply with all other invoicing requirements stated in the RFP.

## **2.9 Termination:**

2.9.1 The Division of Purchasing and Materials Management reserves the right to terminate the contract at any time, for the convenience of the State of Missouri, without penalty or recourse, by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. The contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the State of Missouri pursuant to the contract prior to the effective date of termination.

## **2.10 Insurance:**

2.10.1 The contractor shall understand and agree that the State of Missouri cannot save and hold harmless and/or indemnify the contractor or employees against any liability incurred or arising as a result of any activity of the contractor or any activity of the contractor's employees related to the contractor's performance under the contract. Therefore, the contractor must acquire and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the State of Missouri, its agencies, its employees, its clients, and the general public against any such loss, damage and/or expense related to his/her performance under the contract.

## **2.11 Contractor Liability:**

2.11.1 The contractor shall be responsible for any and all personal injury (including death) or property damage as a result of the contractor's negligence involving any equipment or service provided under the terms and conditions, requirements and specifications of the contract. In addition, the contractor assumes the obligation to save the State of Missouri, including its agencies, employees, and assignees, from every expense, liability, or payment arising out of such negligent act. The

contractor also agrees to hold the State of Missouri, including its agencies, employees, and assignees, harmless for any negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the contractor under the terms of the contract.

2.11.2 The contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the State of Missouri, including its agencies, employees, and assignees.

2.11.3 Under no circumstances shall the contractor be liable for any of the following: (1) third party claims against the state for losses or damages (other than those listed above); (2) loss of, or damage to, the state's records or data; or (3) economic consequential damages (including lost profits or savings) or incidental damages, even if the contractor is informed of their possibility.

## **2.12 Coordination:**

2.12.1 The contractor shall fully coordinate all contract activities with those activities of the state agency. As the work of the contractor progresses, advice and information on matters covered by the contract shall be made available by the contractor to the state agency or the Division of Purchasing and Materials Management throughout the effective period of the contract.

## **2.13 Estimated Quantities:**

2.13.1 The quantities indicated in this Request for Proposal are estimates that pertain to the total aggregate quantities that may be ordered throughout the stated contract period. The estimates do not indicate single order amounts unless otherwise stated. The State of Missouri makes no guarantees about single order quantities or total aggregate order quantities.

## **2.14 Federal Funds Requirement:**

2.14.1 The contractor shall understand and agree that this procurement may involve the expenditure of federal funds. Therefore, in accordance with the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, Public Law 101-166, Section 511, "Steven's Amendment", the contractor shall not issue any statements, press releases, and other documents describing projects or programs funded in whole or in part with Federal money unless the prior approval of the state agency is obtained and unless they clearly state the following as provided by the state agency:

- a. the percentage of the total costs of the program or project which will be financed with Federal money;
- b. the dollar amount of Federal funds for the project or program;
- c. and percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

## **2.15 Minority Business Enterprise/Women Business Enterprise (MBE/WBE) Participation:**

2.15.1 The contractor must comply with the MBE/WBE participation levels committed to in the contractor's awarded proposal.

2.15.2 The contractor shall prepare and submit to the Division of Purchasing and Materials Management periodic reports detailing all payments to MBE/WBEs participating in the contract. The report must include MBE/WBE payments for the reporting period. The report shall be submitted on a monthly basis unless otherwise determined by the Division of Purchasing and Materials Management.

- 2.15.3 The Division of Purchasing and Materials Management and the Office of Supplier and Workforce Diversity (OSWD) will monitor the contractor's compliance in meeting the MBE/WBE participation levels committed to in the contractor's awarded proposal. If the contractor's payments to participating MBE/WBEs are less than the amount committed to in the contract, the state may cancel the contract, suspend or debar the contractor from participating in future state procurements, or retain payments to the contractor in an amount equal to the value of the MBE/WBE participation commitment less actual payments made by the contractor to MBE/WBEs. If the Division of Purchasing and Materials Management determines that the contractor is in compliance with the MBE/WBE participation commitment, the state will release the retained funds.
- 2.15.4 If a participating MBE/WBE fails to retain their certification or is unable to satisfactorily perform, the contractor must obtain other certified MBE/WBEs to fulfill the MBE/WBE participation requirements committed to in the contractor's awarded proposal. The contractor must obtain the written approval of the Division of Purchasing and Materials Management for any new MBE/WBE participants. This approval shall not be arbitrarily withheld. If the contractor cannot obtain a MBE/WBE replacement, the contractor must submit documentation to the Division of Purchasing and Materials Management detailing all efforts made to secure an MBE/WBE replacement. The Division of Purchasing and Materials Management shall have sole discretion in determining if the actions taken by the contractor constitute a good faith effort to secure the participation of MBE/WBEs and whether the contract will be amended to change the MBE/WBE participation commitment.

### **3. GENERAL SYSTEM AND CONTRACTOR PERFORMANCE REQUIREMENTS**

#### **3.1 System Requirements:**

- 3.1.1 The contractor shall provide a total of eight inserter based digital meters that shall meet the specifications stated herein. All inserter based digital meters must be new and in current production. The inserter based digital meters must meet the US Postal System meter security and identification requirements. The system shall be Information Based Indicia Program (I.B.I.P) compliant. The system provided shall comply with the new USPS Phase III Meter Migrations requirements to replace existing meters that are now interfaced with the Bowe Bell & Howell Mailstar inserters.
- 3.1.2 The system shall have USPS approved digital printing technology. The Postal Security device must be IBIP compliant and removable for use on other equipment.
- 3.1.3 The system shall interface with the existing Bowe Bell & Howell Mailstar inserters in order to stop the inserter in the event of a jam or other problem at the meter base.
- 3.1.4 The system shall process single weight and mixed weight mail at a minimum speed of 10,000 pieces per hour.
- 3.1.5 The system shall be able to print metered postage as well as permit imprint indicia.
- 3.1.6 The system shall be able to perform print head maintenance and ink refill to deliver non-stop printing.
- 3.1.7 The system shall have postage accounting for charge back and reporting purposes.
- 3.1.8 The system shall contain complete United States Postal Service (USPS) rate structure including Domestic and International rates.
- 3.1.9 The contractor shall provide current postage rates and new postal rates/classes when the USPS issues new rates and classes. This may be done via diskette or via the Internet. Rates and

rate/class upgrades shall be provided at no additional cost to the State of Missouri. It is preferred that the system be capable of downloading postage via the Internet, and automatically downloads new rates and classes automatically during postage downloads.

- 3.1.10 The contractor shall provide software upgrades at no additional cost to the State of Missouri. The software updates must be downloadable, including postal inscriptions, ads, and accounting upgrades.
- 3.1.11 The contractor shall provide support to the state agency to obtain services such as delivery confirmation, signature confirmation, and certified mail tracking at no additional charge. The system should be capable of providing value-based services electronically, such as delivery confirmation, signature confirmation, certified mail tracking, etc. The contractor shall provide education and support to the state agency at no extra charge in order to maximize the agency's benefit from the service.
- 3.1.12 The system shall have the capability to access postage account information either on-line or via phone-connection modem hook-up which the contractor shall provide.
- 3.1.13 The system shall be equipped with "Low Funds" warning, "High Value" postage warning and low ink alert.
- 3.1.14 The system shall include auto dating and the ability to advance date easily.
- 3.1.15 The system shall use fast drying, non-smearing ink.
- 3.1.16 The system shall have an ink-saving indicia approved by the USPS.
- 3.1.17 The system control panel must swivel for ease of access.

### **3.2 Department of Revenue Compatibility Requirements**

- 3.2.1 In addition to meeting all previously stated requirements, three of the total eight inserter based digital meters the contractor shall provide must also be compatible with the Department of Revenue's existing Hasler System 36 Global 36 accounting system.

### **3.3 General Service Requirements:**

- 3.3.1 Service shall be continual. The contractor must always be available to serve the state agencies as necessary throughout the duration of the contract. Failure to provide part of any required service or to any location listed may be considered potential breach of the contract in its entirety.
- 3.3.2 All service shall be performed to the sole satisfaction of the state agency.
- 3.3.3 All service shall be in compliance with manufacturer standards for maintaining the equipment, including standards for preventative maintenance which shall include but not necessarily be limited to machine adjustments, cleaning, lubrication, calibration, and parts replacement while the system is under warranty.
- 3.3.4 After the state agency makes the initial call for service, the contractor must respond within two (2) work hours to set up an appointment for service at the state agency site.
- 3.3.5 The contractor must respond on-site within the next business day after the state agency's initial request for service.

**3.4 Installation/Testing Requirements:**

- 3.4.1 The contractor shall be responsible for completely installing the inserter based digital meter at the state agency site in accordance with all manufacturer and industry standards and recommendations. The system must be tested and proved fully functional as part of the complete installation provided by the contractor.

**3.5 Training Requirements/Manual:**

- 3.5.1 The contractor shall provide on-site system training on operation and maintenance topics to state agency personnel at no additional cost to the state agency.
- 3.5.2 In addition, the contractor shall provide a complete manufacturer-approved owner's operator manual to the state agency at no additional charge. All training provided should qualify as accredited postal training.

**3.6 Reserve Account:**

- 3.6.1 The contractor shall set-up and maintain a reserve account for the state agency for depositing postage funds, and withdrawing them as needed to meet postage needs. The contractor shall provide the agency with monthly reports regarding the postage balance and transactions on the account for the month at no additional charge to the state agency.

**3.7 Delivery and Installation**

- 3.7.1 The contractor shall coordinate with the state agency's schedule and shall provide timely delivery and installation. The decision of the state agency is final regarding specific delivery and installation dates.
- 3.7.2 The system shall be installed and ready for use no later than December 29, 2006.

**3.8 Single Point of Contact:**

- 3.8.1 The contractor must function as the single point of contact for the state, regardless of any subcontract arrangements for all products and services. This shall include assuming responsibility and liabilities for all problems relating to all hardware, software and services provided. In addition the contractor shall provide product information and selection guidance to any state agency specifically requesting such assistance at no charge.

**3.9 Manufacturer's Warranty:**

- 3.9.1 The contractor must at minimum provide the manufacturer's standard warranty on the system and it must cover at least a 12-month period covering all parts and labor.

**3.10 Support and Maintenance:**

- 3.10.1 During the warranty period, the contractor shall provide on-going maintenance and support of the equipment including software, which shall include provision of software upgrades, new releases as well as telephone and Internet support with problem determination and resolution. Software pricing for new releases may be paid in addition if agreed to by the state agency and amended into the contract by formal amendment by the Division of Purchasing and Materials Management if not already stated in the contract.
- a. The contractor must provide technical support Monday – Friday, 8 a.m. to 5 p.m. central time, excluding state holidays. However, it is highly desirable that the contractor provides 24 hours per day, 7 days per week technical support.



- b. The contractor must provide a toll-free telephone hotline support system that shall be available Monday through Friday, from 8 a.m. to 5 p.m., to answer, at minimum, application and "operational hardware" questions. This support must be "on-going" and without additional charge.
- c. It is highly desirable that the contractor provide 24 hours per day, 7 days per week electronic support. Electronic support shall include the ability to report problems to the contractor on-line, the ability to browse a database containing problems and technical questions, and the ability to order fixes electronically.

3.10.2 The contractor should provide on-site support.

3.10.3 Upon expiration of the warranty, the contractor must provide 8 hours per day, 5 day per week maintenance services, including preventive and remedial maintenance on the equipment including system software for all state agencies under the contract except Department of Social Services, Division of General Services. The contractor shall provide the Department of Social Services, Division of General Services maintenance service 16 hours per day, 4 days per week (Monday through Thursday) and 8 hours per day on Friday. Maintenance shall include provision of all routine parts and labor, at no charge in addition to the quoted monthly maintenance price. Regarding non-routine repair problems, the contractor must first consult with the state agency prior to starting any work. Non-routine repair shall not be covered by the monthly maintenance price and may be charged at the contractor's then-current service rates only after the state agency approves the non-routine repair work. Software maintenance shall include provision of software upgrades, new releases as well as telephone and Internet support with problem determination and resolution. Software pricing for new releases may be paid in addition if agreed to by the state agency and amended into the contract by formal amendment by the Division of Purchasing and Materials Management if not already stated in the contract.

3.10.4 The contractor shall agree and understand that the State of Missouri reserves the right to cancel maintenance on any or all of the item(s) with 30 days prior written notice to the contractor.

### **3.11 Supplies:**

3.11.1 The contractor shall provide consumable supplies for equipment upon request of the state agency. See paragraph 2.6 and its subparagraphs herein for supplies pricing requirements.

## **4. OFFEROR'S INSTRUCTIONS AND REQUIREMENTS**

### **4.1 Preparation and Submission of Proposals:**

4.1.1 ELECTRONIC SUBMISSION OF PROPOSALS THROUGH THE ON-LINE BIDDING WEB SITE IS NOT AVAILABLE FOR THIS RFP.

4.1.2 Offeror's Contact: Any and all communication from offeror's regarding specifications, requirements, competitive proposal process, etc. related to the proposal document must be referred to the Buyer of Record identified on the first page of this document. Such communication should be received at least ten calendar days prior to the official proposal opening date.

4.1.3 Copies: The offeror's response should include an original document, plus six (6) copies for a total of seven (7) documents.

4.1.4 Open Records: The offeror's proposal shall be considered open record upon award of the RFP pursuant to Section RSMo 610.021 (State of Missouri Revised Statutes). The offeror shall not submit their entire proposal as proprietary or confidential. Also, the offeror shall not submit any

part of their proposal as confidential unless the proprietary or confidential nature of the material is provided for in the above-referenced statute. Proprietary or confidential portions of the offeror's proposal allowed by the statute shall be separated, sealed and clearly marked as confidential. Also, the offeror shall provide adequate explanation of what qualifies the material as being held confidential under the provisions of the statute.

4.1.5 Compliance with Terms and Conditions: The offeror's proposal response shall not take exception to or conflict with the mandatory requirements of the RFP (denoted by the words "must" and "shall") including the RFP terms and conditions.

- a. Offerors are cautioned that the State of Missouri will not award a non-compliant proposal and, as a result, any offeror indicating non-compliance with any requirements, terms, conditions and provisions of the RFP will be eliminated from further consideration for award unless the State exercises its sole option to competitively negotiate the respective proposal(s) and the offeror resolves the noncompliant issues.
- b. The offeror is cautioned when submitting pre-printed terms and conditions or other type material to make sure such documents do not contain other terms and conditions which conflict with those of the RFP and its contractual requirements. The offeror agrees that in the event of conflict between any of the offeror's terms and conditions and those contained in the RFP, that the RFP shall govern. Taking exception to the State's terms and conditions may render an offeror's proposal unacceptable and remove it from consideration for award.

4.1.6 Business Compliance: The offeror must be in compliance with the laws regarding conducting business in the State of Missouri. The offeror certifies by signing the signature page of this original document and any amendment signature page(s) that he/she and any proposed subcontractors either are presently in compliance with such laws or shall be in compliance with such laws prior to any resulting contract award. The offeror shall provide documentation of compliance upon request by the Division of Purchasing and Materials Management. The compliance to conduct business in the state shall include but may not be limited to:

- Registration of business name (if applicable)
- Certificate of authority to transact business/certificate of good standing (if applicable)
- Taxes (e.g., city/county/state/federal)
- State and local certifications (e.g., professions/occupations/activities)
- Licenses and permits (e.g., city/county license, sales permits)
- Insurance (e.g., worker's compensation/unemployment compensation)

4.1.7 Proposal Detail Requirements and Deviations: It is the offeror's responsibility to submit a proposal that meets all mandatory specifications stated herein. The offeror should clearly identify any and all deviations from both the mandatory and desirable specifications stated in the RFP. Any deviation from a mandatory requirement may render the proposal non-responsive. Any deviation from a desirable specification may be reviewed by the state as to its acceptability and impact on competition.

- **Offerors should note:** A descriptive brochure of the model bid may not be acceptable as clear identification of deviations from the written specification.

4.1.8 Preprinted Marketing Materials: The offeror may submit preprinted marketing materials with the proposal. However, the offeror is advised that such brochures normally do not address the needs of the evaluators with respect to the technical evaluation process and the specific responses which have been requested of the offeror. The offeror is strongly discouraged from relying on such materials in presenting products and services for consideration by the state.

**4.2 Evaluation:**

- 4.2.1 After determining that a proposal satisfies the mandatory requirements, the evaluator(s) shall use both objective and subjective judgment in conducting a comparative assessment of the proposals in accordance with the evaluation criteria stated below:

Cost: .....	60 Points
Cost for Equipment .....	55 Points
Cost for Supplies .....	5 Points
Product Demonstration and Product Features.....	20 Points
Contractor Support.....	15 Points
MBE/WBE .....	5 Points

- 4.2.2 After an initial screening process, a question and answer conference may be conducted with the offeror, if deemed necessary. In addition, the offeror may be asked to make an oral presentation of their proposal during the conference. Attendance cost at the conference shall be at the offeror's own expense. All arrangements and scheduling shall be coordinated by the Division of Purchasing and Materials Management.
- 4.2.3 Competitive Negotiation of Proposals: The offeror is advised that under the provisions of this Request for Proposal, the Division of Purchasing and Materials Management reserves the right to conduct negotiations of the proposals received or to award a contract without negotiations. If such negotiations are conducted, the following conditions shall apply:
- a. Negotiations may be conducted in person, in writing, or by telephone.
  - b. Negotiations will only be conducted with potentially acceptable proposals. The Division of Purchasing and Materials Management reserves the right to limit negotiations to those proposals which received the highest rankings during the initial evaluation phase. All offerors involved in the negotiation process will be invited to submit a best and final offer.
  - c. Terms, conditions, prices, methodology, or other features of the offeror's proposal may be subject to negotiation and subsequent revision. As part of the negotiations, the offeror may be required to submit supporting financial, pricing and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the proposal.
  - d. The mandatory requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the Division of Purchasing and Materials Management.

**4.3 Cost:**

- 4.3.1 The offeror must submit pricing on the pricing page for five inserter based digital meters for the Department of Social Services/Division of General Services and Department of Labor and Industrial Relations. In addition, the offeror must submit pricing on the following pricing page for three inserter based digital meters for the Department of Revenue which requires special compatibility with the existing Hasler System 36 Global 36 accounting system. All required system components must be priced as applicable.
- 4.3.2 Cost is worth a maximum 60 points. Fifty-five (55) points shall be based on equipment costs including all necessary hardware and software for the system. Five (5) points shall be based on supplies purchase. Supply yield may be evaluated if a fair comparison can be made. All cost points shall be calculated and prorated on the lowest total price from an acceptable offer.
- 4.3.3 The offeror must itemize and price all necessary system components including all required hardware and software. The state will produce a total system price based on component pricing. The evaluation shall cover the original contract period plus renewal periods. The cost evaluation

shall include all mandatory requirements, including the rental of the meter, installation, testing charges and maintenance. However, the State of Missouri reserves the right to evaluate optional items, if deemed necessary.

- 4.3.4 Supplies costs shall also be considered in all cost evaluations. The offeror must quote one firm fixed across the board discount off current list/catalog price that shall apply to the purchase of all consumable supplies under the contract. All potentially necessary supplies must be identified and priced specific to each system. A hypothetical purchase price of \$1,500 shall be used to which the percentage discount will be applied for supplies. The resulting discounted amount will be used to award the five-points.

#### **4.4 Product Demonstration and Product Features:**

- 4.4.1 Proposals will be subjectively evaluated based on a product demonstration for each system the offeror proposes. The offeror may be required to provide a demonstration of his/her system's capabilities in Jefferson City as part of the evaluation. The state reserves the right to rely on web-cast demonstrations as an alternative or in addition to a live equipment product demonstration. The equipment demonstration should show-case the system's capabilities and features. The demonstration shall be conducted at the offeror's expense meaning that all costs associated with transporting, setting-up, and demonstrating the equipment shall be the responsibility of the offeror. As deemed necessary, a specific date and location will be provided by the Division of Purchasing and Materials Management in order to facilitate this part of the evaluation. The offeror must cooperate and provide assistance to the state as is necessary to conduct a successful demonstration at no cost to the State of Missouri.
- 4.4.2 The offeror should present a detailed description of all products and services proposed in the response to this RFP. It is the offeror's responsibility to make sure all products proposed are adequately described. It should not be assumed that the evaluator has specific knowledge of the products proposed; however, the evaluator does have sufficient technical background to conduct an evaluation when presented complete information.
- 4.4.3 The state will be assessing the usability of the systems, compatibility of the system with the existing system, user friendly features, component accessibility, overall system operation consistent with the state's expectations as part of its evaluation during the product demonstration. Features the state is interested in seeing demonstrated and/or addressed in product literature include but are not exclusively limited to:
- a. The ease of switching meter imprints
  - b. How well the system processes varying envelope sizes and thicknesses up to 5/8"
  - c. The types of reports the system can generate
  - d. How easy it is to switch between accounts when running the mail
  - e. How many job presets there are and how easy it is to switch between them
  - f. Is the meter compatible with other equipment so that in the event one machine is down, the meter can be used on a machine that's running
  - g. How the system interfaces with mail management/accounting systems for charge back purposes
  - h. How easy is it to clear a "jam"
  - i. How accessible and easy is it to get to supply-refill areas
  - j. What kind of special supply needs the system has
  - k. What type of alert messages the system produces

#### **4.5 Contractor Support**

- 4.5.1 Proposals will be subjectively evaluated based on the offeror's distinctive plan for performing the requirements of the RFP. Therefore, the offeror should complete **Exhibit A** in a written narrative that demonstrates the method or manner in which the offeror proposes to satisfy contractor

support requirements, e.g., on-site training, manner of delivering warranty service, turn-around times for delivery and set-up of the equipment, etc. The language of the narrative should be straightforward and limited to facts, solutions to problems, and plans of action. Failure to complete **Exhibit A** may result in a negative assessment of the offeror's proposal up to and including disqualification of the proposal.

#### **4.6 Evaluation of Offeror's Minority Business Enterprise (MBE)/Women Business Enterprise (WBE) Participation:**

4.6.1 In order for the Division of Purchasing and Materials Management (DPMM) to meet the provisions of Executive Order 05-30, it is desired the offeror secure participation of certified MBEs and WBEs in providing the products/services required in this RFP. The targets of participation recommended by the State of Missouri are 10% MBE and 5% WBE of the total dollar value of the contract.

- a. These targets can be met by a qualified MBE/WBE offeror themselves and/or through the use of a qualified subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful opportunities for MBE/WBE participation.
- b. Work performed by MBE/WBEs must provide a commercially useful function related to the delivery of the service/product required herein.
- c. In order to be considered as meeting these targets, the MBE/WBEs must be "qualified" at the time the proposal is submitted. (See below for a definition of a qualified MBE/WBE.)

4.6.2 The offeror's proposed participation of MBE/WBE firms in meeting the targets of the RFP will be considered in the evaluation process as specified below:

- a. The offeror's failure to provide any commercially useful MBE/WBE participation shall result in a score of 0 in this evaluation category.
- b. Offerors meeting or exceeding the State of Missouri targets of 10% MBE and 5% WBE participation shall receive the maximum points in this category.
- c. Lesser participation commitments shall receive a lesser amount of the maximum points.

4.6.3 If the offeror is proposing MBE/WBE participation, in order to receive evaluation consideration for MBE/WBE participation, the offeror must provide information on the offeror's proposed participation of MBE/WBE firms by submitting the following completed Exhibits with the proposal.

- a. Participation Commitment - If the offeror is proposing MBE/WBE participation, the offeror must complete **Exhibit B**, Participation Commitment, in order to identify each proposed MBE and WBE as well as to identify the offeror's proposed total MBE/WBE participation commitment.
- b. Documentation of MBE/WBE Participation - If the offeror is proposing MBE/WBE participation, the offeror must ensure that each MBE and WBE listed in **Exhibit B**, Participation Commitment, completes **Exhibit C**, Documentation of MBE/WBE Participation, which must be submitted with the offeror's proposal.
- c. Offerors Qualifying as MBE/WBE – If the offeror submitting the proposal is a qualified MBE and/or WBE, the offeror must complete both the Participation Commitment and Documentation of MBE/WBE Participation Exhibits identified above.

- 4.6.4 Commitment – If the offeror's proposal is awarded, the percentage level of MBE/WBE participation committed to by the offeror in **Exhibit B** Participation Commitment, and verified in **Exhibit C**, Documentation of MBE/WBE Participation, **shall be interpreted as a contractual requirement.**

Definition of Qualified MBE/WBE:

- a. In order to be considered a qualified MBE or WBE for purposes of this RFP, the MBE/WBE must be certified by the State of Missouri, Office of Administration, Office of Supplier and Workforce Diversity (OSWD).
  - b. MBE or WBE means a business that is a sole proprietorship, partnership, joint venture, or corporation in which at least fifty-one percent (51%) of the ownership interest is held by minorities or women and the management and daily business operations of which are controlled by one or more minorities or women who own it.
  - c. Minority is defined as belonging to one of the following racial minority groups: African Americans, Native Americans, Hispanic Americans, Asian Americans, American Indians, Eskimos, Aleuts and other groups that may be recognized by the Office of Advocacy, United States Small Business Administration, Washington, D.C.
- 4.6.5 Resources - A listing of several resources that are available to assist offerors in their efforts to identify and secure the participation of qualified MBEs and WBEs is available at the website shown below or by contacting the Office of Supplier and Workforce Diversity (OSWD) at:

Office of Administration, Office of Supplier and Workforce Diversity  
Harry S Truman Bldg., Room 630  
P.O. Box 809  
Jefferson City, MO 65102  
Phone: (877) 259-2963 or (573) 751-8130  
Fax: (573) 522-8078  
Web site: <http://www.oa.mo.gov/oswd>

**4.7 American Made:**

- 4.7.1 In accordance with the Domestic Product Procurement Act (hereinafter referred to as the Buy American Act) RSMo 34.350-34.359, the offeror is advised that any goods purchased or leased by any public agency shall be manufactured or produced in the United States.
- 4.7.2 The requirements of the Buy American Act shall not apply if other exceptions to the Buy American mandate in RSMo 34.353 are met.
- 4.7.3 If the offeror claims there is only one line of the good manufactured or produced in the United States, RSMo 34.353 (2), or that one of the exceptions of RSMo 34.353 (3) applies, the Executive Head of the Agency bears the burden of certification as required prior to the award of a contract.
- 4.7.4 In accordance with the Buy American Act, the offeror must provide proof of compliance with RSMo 34.353. Therefore the offeror should complete and return **Exhibit D**, certification regarding proof of compliance, with the proposal. This document must be satisfactorily completed prior to an award of a contract.

**4.8 Debarment Certification:**

- 4.8.1 Offerors should complete and return the attached certification regarding debarment, etc., **Exhibit E** with their proposal. This document must be satisfactorily completed prior to award of the contract.

**DATE OF AWARD THROUGH ONE YEAR  
FIRM FIXED PURCHASE PRICING  
FOR  
REQUIRED EQUIPMENT AND SOFTWARE**

	ITEM DESCRIPTION Inserter Based Digital Meter for the Department of Social Services/Division of General Services and Department of Labor and Industrial Relations must meet all specifications stated herein.  The offeror must identify all necessary system components including all hardware, software, installation and materials necessary to complete the system to make it fully operational and compatible with the Bowe Bell & Howell Mail Star equipment.	QTY.  5	PURCHASE PRICE		ADDITIONAL MONTHLY MAINTENANCE PRICE, AFTER WARRANTY		POSTAGE METER RENTAL PER MONTH	
			UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
GRAND TOTALS:			Line Item 001	\$	Line Item 002	\$	Line Item 003	\$

**Line Item 001 C/S Code: 60077 Postage Equipment**  
Total Purchase Price FOR ONE SYSTEM that includes all Equipment, Software and Installation, See Line Item 001 above

**Line Item 002 C/S Code: 60077 Postage Equipment**  
Total Monthly Maintenance Price

**Line Item 003 C/S Code: 60077 Postage Equipment**  
Total Monthly Meter Rental

Pursuant to the terms, conditions and specifications set forth in this Request for Proposal, I hereby quote the price(s) for items and services indicated above at a firm, fixed purchase price for the contract period and hereby grant the State of Missouri the right to add or delete the quoted items and services at the same price(s) indicated above at any time during the contract period. In the event that the State of Missouri exercises its options to extend the contract period, the prices for such extension period shall be determined pursuant to Renewal Option Tables. Unless quoted above, the contractor agrees that the State of Missouri shall not pay for any maintenance costs. Such cost shall be considered to be included in the firm, fixed purchase price.

**DATE OF AWARD THROUGH ONE YEAR  
FIRM FIXED PURCHASE PRICING  
FOR  
REQUIRED EQUIPMENT AND SOFTWARE**

	ITEM DESCRIPTION Inserter Based Digital Meter for the Missouri Department of Revenue. Must meet all specifications stated herein.  The offeror must identify all necessary system components including all hardware, software, installation and materials necessary to complete the system to make it fully operational and compatible with the Bowe Bell & Howell Mail Star equipment and existing Hasler System 36 Global 36 accounting system.	QTY.  3	PURCHASE PRICE		ADDITIONAL MONTHLY MAINTENANCE PRICE, AFTER WARRANTY		POSTAGE METER RENTAL PER MONTH	
			UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
GRAND TOTALS:			Line Item 001	\$	Line Item 002	\$	Line Item 003	\$

**Line Item 004 C/S Code: 60077 Postage Equipment**  
Total Purchase Price FOR ONE SYSTEM that includes all Equipment, Software and Installation, See Line Item 001 above

**Line Item 005 C/S Code: 60077 Postage Equipment**  
Total Monthly Maintenance Price

**Line Item 006 C/S Code: 60077 Postage Equipment**  
Total Monthly Meter Rental

Pursuant to the terms, conditions and specifications set forth in this Request for Proposal, I hereby quote the price(s) for items and services indicated above at a firm, fixed purchase price for the contract period and hereby grant the State of Missouri the right to add or delete the quoted items and services at the same price(s) indicated above at any time during the contract period. In the event that the State of Missouri exercises its options to extend the contract period, the prices for such extension period shall be determined pursuant to Renewal Option Tables. Unless quoted above, the contractor agrees that the State of Missouri shall not pay for any maintenance costs. Such cost shall be considered to be included in the firm, fixed purchase price.



**DATE OF AWARD THROUGH ONE YEAR  
FIRM FIXED PURCHASE PRICING  
FOR  
OPTIONAL EQUIPMENT AND SOFTWARE**

[illegible]

Pursuant to the terms, conditions and specifications set forth in this Request for Proposal, I hereby quote the price(s) for items and services indicated above at a firm, fixed purchase price for the contract period and hereby grant the State of Missouri the right to add or delete the quoted items and services at the same price(s) indicated above at any time during the contract period. In the event that the State of Missouri exercises its options to extend the contract period, the prices for such extension period shall be determined pursuant to Renewal Option Tables. Unless quoted above, the contractor agrees that the State of Missouri shall not pay for any maintenance costs. Such cost shall be considered to be included in the firm, fixed purchase price.



## RENEWAL OPTION FOR ALL PRICES

The Division of Purchasing and Materials Management shall have the sole option to renew the contract in one (1) year increments, or a portion thereof, for a maximum total of two (2) additional years for supplies, parts and maintenance.

The offeror must indicate below the maximum allowable percentage of price increase or **guaranteed** minimum percentage of price decrease applicable to the renewal option periods. If a percentage is not quoted (i.e. left blank), the state shall have the right to execute the option at the same price(s) quoted for the original contract period. Statements such as "a percentage of the then-current price" or "consumer price index" are NOT ACCEPTABLE.

All increases or decreases shall be calculated against the **ORIGINAL** contract price, NOT against the previous year's price. A CUMULATIVE CALCULATION SHALL NOT BE UTILIZED.

The percentages indicated below will be used in the cost evaluation to determine the potential maximum financial liability to the State of Missouri.

**NOTICE: DO NOT COMPLETE BOTH A MAXIMUM INCREASE AND A MINIMUM DECREASE FOR THE SAME RENEWAL PERIOD.**

1. Supplies and Parts

	<u>Maximum Increase</u>	<b>OR</b>	<u>Minimum Decrease</u>
1st Renewal Period:	original price + _____%	<b>OR</b>	original price - _____%
2nd Renewal Period:	original price + _____%	<b>OR</b>	original price - _____%

2. Post-Warranty Maintenance

	<u>Maximum Increase</u>	<b>OR</b>	<u>Minimum Decrease</u>
1st Renewal Period:	original price + _____%	<b>OR</b>	original price - _____%
2nd Renewal Period:	original price + _____%	<b>OR</b>	original price - _____%

**Exhibit A**  
**Contractor Support**

The offeror should complete all blanks with requested information. Failure to complete this exhibit on specific request of the DPMM may result in the offeror's proposal being assessed negatively or disqualified altogether.

The offeror should describe all maintenance service to be contractually agreed to including the levels of contact for maintenance, preventive maintenance programs, warranties and liabilities:

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The offeror should describe how they intend to function as a single point of contact for the state, regardless of any subcontract arrangements. This should include responsibilities and liabilities of the offeror for all problems relating to the equipment.

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The offeror should identify where component spare parts for maintenance of the proposed equipment will be stocked. The offeror should also identify where back-up parts are located and the procedures that will be used in the event a part from the back-up location is required.

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The offeror should indicate dollar value of inventory on hand.

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State length of time following award of the contract for which parts availability shall be guaranteed.

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The offeror should provide the following information relating to the provision of maintenance service on a 5-day per week, 8-hour per day basis:

Where will the primary service organization be located?

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How many service representatives at the primary location are trained on the equipment proposed?

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Are service representatives factory or dealer trained?

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State the years of experience of each service representative who will respond to service calls on the proposed equipment.

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Where will the secondary service organization be located?

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How many service representatives at the secondary location are trained on the equipment proposed?

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The offeror should describe their plan for responding to off-hour (non-prime time) requests for service and requests for service on holidays, weekends and vacations.

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What are the procedures for service representative staffing during vacations and holidays?

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What are the procedures to be used to contact service personnel?

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Describe the maintenance escalation procedure complete with the positions and telephone numbers of the people to be notified.

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The offeror should describe response time guarantees to be provided to the state and any associated penalties the state may apply if the guarantees are not met by the service organization.

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The offeror must describe any obligations the state may have for charges from the offeror's service organization when they respond to a call for service and the problem is determined to be another vendor's hardware or software. If the state is liable for charges, what are they?

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The offeror should state if they will assume responsibility for charges for diagnostic testing or other maintenance services provided by another vendor if the problem is determined to be theirs.

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The offeror should describe training provided to the state for installation, operation, programming and screen design, operator training, etc.

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Describe training, provide location where training is held, provide frequency of training and duration of classes recommended.

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The offeror should specify the amount of technical support provided to the state at no cost in the implementation of the new system.

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The offeror should identify the state's responsibility and the contractor's responsibility pertaining to installation of the proposed equipment.

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The offeror should fully describe the installation procedure necessary for utilization of their proposed equipment.

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In addition to the above, the offeror should provide the following information:

A description of the proposed services that will be performed and/or the proposed products that will be provided by Missourians and/or Missouri products

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A description of the economic impact returned to the State of Missouri through tax revenue obligations.

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A description of the company's economic presence within the State of Missouri (e.g., type of facilities: sales offices; sales outlets; divisions; manufacturing; warehouse; other), including Missouri employee statistics.

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If any products and/or services offered under this RFP are being manufactured or performed at sites outside the continental United States, the offeror MUST disclose such fact and provide details with the bid.

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**Exhibit B****Participation Commitment**

If proposing MBE/WBE participation, the offeror must indicate below the percentage of qualified MBE and WBE participation committed to in relation to the total dollar value of the contract. (Note: Products/services provided by MBE/WBEs must provide a commercially useful function related to the delivery of the products/services required herein.) This completed exhibit must be submitted with the offeror's proposal.

If the offeror is a qualified MBE and/or WBE, the offeror must indicate the percentage of the contract value that the offeror will provide themselves.

NOTE: In order to be a **qualified** MBE or WBE for purposes of this RFP, the MBE/WBE must be certified by the State of Missouri, Office of Administration, Office of Supplier and Workforce Diversity (OSWD).

Name of MBE	Percentage of Total Contract Value	Name of WBE	Percentage of Total Contract Value
1.		1.	
2.		2.	
3.		3.	
4.		4.	
5.		5.	
<b>Total MBE:</b>		<b>Total WBE:</b>	

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Authorized Signature of Offeror

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Date



**Exhibit C****DOCUMENTATION OF MBE/WBE PARTICIPATION**

If proposing MBE/WBE participation, the offeror must provide a copy of this page to each proposed MBE/WBE. Each MBE/WBE included in this proposal must complete a copy of this exhibit separately. If the offeror qualifies as a MBE and/or WBE, the offeror must also complete this exhibit. These completed exhibits must be submitted with the offeror's proposal.

Indicate appropriate business classification(s): \_\_\_\_\_ MBE \_\_\_\_\_ WBE

Name of MBE/WBE firm: \_\_\_\_\_

Address: \_\_\_\_\_ Phone #: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_ Fax #: \_\_\_\_\_

Email Address: \_\_\_\_\_

Describe the products/services you will be providing. (Note: Products/services provided by MBE/WBEs must provide a commercially useful function related to the delivery of the products/services required herein.)

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Provide the percentage of MBE/WBE participation committed to in relation to the total dollar value of the contract for the products/services you are supplying for this contract.

\_\_\_\_\_ %

Provide or attach an explanation of the assumptions used in the development of the above percentage.

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Each MBE/WBE must provide their State of Missouri, Office of Supplier and Workforce Diversity (formerly Office of Equal Opportunity) certification number below.

By signing below, the undersigned hereby affirms that the company listed above meets the definition of a MBE or WBE as defined in RSMo 37.020 and has obtained certification from the State of Missouri, Office of Administration, Office of Supplier and Workforce Development (OSWD).

Name of MBE/WBE Owner: \_\_\_\_\_ Date: \_\_\_\_\_

MBE/WBE Certification Number: \_\_\_\_\_/Certification Expiration Date: \_\_\_\_\_

Federal Employer Identification Number/Social Security Number: \_\_\_\_\_

MBE/WBE Owner/Authorized Representative Signature: \_\_\_\_\_

Authorized Signature of Offeror: \_\_\_\_\_

**Exhibit D****STATE OF MISSOURI -- OFFICE OF ADMINISTRATION  
DOMESTIC PRODUCTS PROCUREMENT ACT (BUY AMERICAN)**

The Missouri Domestic Products Procurement Act (34.350-34.359 RSMo) requires that for all proposals with a value of \$25,000 or more, the goods or commodities purchased by any public agency or used or supplied in the construction, alteration, repair, or maintenance of any public works must be manufactured or produced in the United States. As defined in 34.350 RSMo, United States means the United States of America, the District of Columbia, and all territories and possessions subject to the jurisdiction of the United States. The law also requires that the offeror must provide proof of compliance. **Note: In general, if an import tariff is applied to an item, it does not qualify for the Buy American preference. In addition, Most Favored Nation status does not allow application of the preference.**

**Section A – All Products Are Manufactured or Produced In U.S.**

If all products proposed qualify as domestic products under Missouri law, complete only Section A.

I hereby certify that all products qualify as domestic, that the information provided is true and correct, and complies with all provisions of Sections 34.350-34.359 RSMo. I understand that any misrepresentation herein constitutes the commission of a class A misdemeanor.
SIGNATURE (If submitting proposal electronically, typed signature required).
COMPANY NAME

**If Section A is completed, do not complete Section B.**

**Section B – Only One Product Line or No Products Are Manufactured or Produced In U.S.**

If only one product line or no products are manufactured or produced in the U.S. complete only section B.

I hereby certify that there is only one product line or no product manufactured or produced in the U.S., that the information provided is true and correct, and complies with all provisions of Sections 34.350-34.359 RSMo. I understand that any misrepresentation herein constitutes the commission of a class A misdemeanor.
SIGNATURE (If submitting proposal electronically, typed signature required).
COMPANY NAME

**Section C – Products May Qualify Because of Qualifying Treaty**

If some or all products proposed qualify for domestic status because of a trade treaty, etc., then the offeror must identify each product, country and qualifying treaty, etc. below. The offeror must list ALL products which are or may qualify as domestic below. If more space is needed, please copy this form and submit as an attachment.

PROPOSAL ITEM NUMBER(S)	COUNTRY WHERE MANUFACTURED OR PRODUCED	QUALIFYING TREATY, LAW, AGREEMENT, OR REGULATION

**SECTION C**

I hereby certify that the specific items listed above are domestic, that the information provided is true and correct, and complies with all provisions of Sections 34.350-34.359 RSMo. I understand that any misrepresentation herein constitutes the commission of a class A misdemeanor.

SIGNATURE (If submitting proposal electronically, typed signature required)
COMPANY NAME

**NOTE: Any product not listed above in Section C will be considered non-domestic if Section A is not signed. If this form is not completed, signed, and returned, items proposed may not receive the domestic preference.**

**Exhibit E**

Certification Regarding  
Debarment, Suspension, Ineligibility and Voluntary Exclusion  
Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98 Section 98.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988, Federal Register (pages 19160-19211).

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS FOR CERTIFICATION)

- (1) The prospective recipient of Federal assistance funds certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective recipient of Federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Name and Title of Authorized Representative

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Signature

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Date

## Instructions for Certification

1. By signing and submitting this proposal, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective recipient of Federal assistance funds learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective recipient of Federal assistance funds agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DOL.
6. The prospective recipient of Federal assistance funds further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to check the List of Parties Excluded from Procurement or Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the DOL may pursue available remedies, including suspension and/or debarment.

**STATE OF MISSOURI  
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT  
TERMS AND CONDITIONS -- REQUEST FOR PROPOSAL**

**1. TERMINOLOGY/DEFINITIONS**

Whenever the following words and expressions appear in a Request for Proposal (RFP) document or any amendment thereto, the definition or meaning described below shall apply.

- a. **Agency and/or State Agency** means the statutory unit of state government in the State of Missouri for which the equipment, supplies, and/or services are being purchased by the **Division of Purchasing and Materials Management (DPMM)**. The agency is also responsible for payment.
- b. **Amendment** means a written, official modification to an RFP or to a contract.
- c. **Attachment** applies to all forms which are included with an RFP to incorporate any informational data or requirements related to the performance requirements and/or specifications.
- d. **Proposal Opening Date and Time** and similar expressions mean the exact deadline required by the RFP for the receipt of sealed proposals.
- e. **Offeror** means the person or organization that responds to an RFP by submitting a proposal with prices to provide the equipment, supplies, and/or services as required in the RFP document.
- f. **Buyer** means the procurement staff member of the DPMM. The **Contact Person** as referenced herein is usually the Buyer.
- g. **Contract** means a legal and binding agreement between two or more competent parties, for a consideration for the procurement of equipment, supplies, and/or services.
- h. **Contractor** means a person or organization who is a successful offeror as a result of an RFP and who enters into a contract.
- i. **Exhibit** applies to forms which are included with an RFP for the offeror to complete and submit with the sealed proposal prior to the specified opening date and time.
- j. **Request for Proposal (RFP)** means the solicitation document issued by the DPMM to potential offerors for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as well as all Pricing Pages, Exhibits, Attachments, and Amendments thereto.
- k. **May** means that a certain feature, component, or action is permissible, but not required.
- l. **Must** means that a certain feature, component, or action is a mandatory condition.
- m. **Pricing Page(s)** applies to the form(s) on which the offeror must state the price(s) applicable for the equipment, supplies, and/or services required in the RFP. The pricing pages must be completed and submitted by the offeror with the sealed proposal prior to the specified proposal opening date and time.
- n. **RSMo (Revised Statutes of Missouri)** refers to the body of laws enacted by the Legislature which govern the operations of all agencies of the State of Missouri. Chapter 34 of the statutes is the primary chapter governing the operations of DPMM.
- o. **Shall** has the same meaning as the word **must**.
- p. **Should** means that a certain feature, component and/or action is desirable but not mandatory.

**2. APPLICABLE LAWS AND REGULATIONS**

- a. The contract shall be construed according to the laws of the State of Missouri. The contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract to the extent that the same may be applicable.
- b. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, the provisions shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and the DPMM.
- c. The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
- d. The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.
- e. The exclusive venue for any legal proceeding relating to or arising out of the RFP or resulting contract shall be in the Circuit Court of Cole County, Missouri.

**3. OPEN COMPETITION/REQUEST FOR PROPOSAL DOCUMENT**

- a. It shall be the offeror's responsibility to ask questions, request changes or clarification, or otherwise advise the DPMM if any language, specifications or requirements of an RFP appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFP to a single source. Any and all communication from offerors regarding specifications, requirements, competitive proposal process, etc., must be directed to the buyer from the DPMM, unless the RFP specifically refers the offeror to another contact. Such communication should be received at least ten calendar days prior to the official proposal opening date.
- b. Every attempt shall be made to ensure that the offeror receives an adequate and prompt response. However, in order to maintain a fair and equitable procurement process, all offerors will be advised, via the issuance of an amendment to the RFP, of any relevant or pertinent information related to the procurement. Therefore, offerors are advised that unless specified elsewhere in the RFP, any questions received less than ten calendar days prior to the RFP opening date may not be answered.
- c. Offerors are cautioned that the only official position of the State of Missouri is that which is issued by the DPMM in the RFP or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
- d. The DPMM monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among offerors, price-fixing by offerors, or any other anticompetitive conduct by offerors which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.
- e. The RFP is available for viewing and downloading on the state's On-Line Bidding/Vendor Registration System website. Premium registered offerors are electronically notified of the proposal opportunity based on the information maintained in the State of Missouri's vendor database. If a Premium registered offeror's e-mail address is incorrect, the offeror must update the e-mail address themselves on the state's On-Line Bidding/Vendor Registration System website.
- f. The DPMM reserves the right to officially amend or cancel an RFP after issuance. Premium registered offerors who received e-mail notification of the proposal opportunity when the RFP was established and Premium registered offerors who have responded to the RFP on-line prior to an amendment being issued will receive e-mail notification of the amendment(s). Premium registered offerors who received e-mail notification of the proposal opportunity when the RFP was established and Premium registered offerors who have responded to the proposal on-line prior to a cancellation being issued will receive e-mail notification of a cancellation issued prior to the exact closing time and date specified in the RFP.

#### 4. PREPARATION OF PROPOSALS

- a. Offerors **must** examine the entire RFP carefully. Failure to do so shall be at offeror's risk.
- b. Unless otherwise specifically stated in the RFP, all specifications and requirements constitute minimum requirements. All proposals must meet or exceed the stated specifications and requirements.
- c. Unless otherwise specifically stated in the RFP, any manufacturer names, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The offeror may offer any brand which meets or exceeds the specification for any item, but must state the manufacturer's name and model number for any such brands in the proposal. In addition, the offeror shall explain, in detail, (1) the reasons why the proposed equivalent meets or exceeds the specifications and/or requirements and (2) why the proposed equivalent should not be considered an exception thereto. Proposals which do not comply with the requirements and specifications are subject to rejection without clarification.
- d. Proposals lacking any indication of intent to offer an alternate brand or to take an exception shall be received and considered in complete compliance with the specifications and requirements as listed in the RFP.
- e. In the event that the offeror is an agency of state government or other such political subdivision which is prohibited by law or court decision from complying with certain provisions of an RFP, such a offeror may submit a proposal which contains a list of statutory limitations and identification of those prohibitive clauses which will be modified via a clarification conference between the DPMM and the offeror, if such offeror is selected for contract award. The clarification conference will be conducted in order to agree to language that reflects the intent and compliance of such law and/or court order and the RFP. Any such offeror needs to include in the proposal, a complete list of statutory references and citations for each provision of the RFP which is affected by this paragraph.
- f. All equipment and supplies offered in a proposal must be new, of current production, and available for marketing by the manufacturer unless the RFP clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
- g. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified in the RFP.
- h. Prices offered shall remain valid for 90 days from proposal opening unless otherwise indicated. If the proposal is accepted, prices shall be firm for the specified contract period.
- i. Any foreign offeror not having an Employer Identification Number assigned by the United States Internal Revenue Service (IRS) must submit a completed IRS Form W-8 prior to or with the submission of their proposal in order to be considered for award.

#### 5. SUBMISSION OF PROPOSALS

- a. Proposals may be submitted by delivery of a hard copy to the DPMM office. Electronic submission of proposals by Premium registered offerors through the State of Missouri's On-Line Bidding/Vendor Registration System website is not available unless stipulated in the RFP. Delivered proposals must be sealed in an envelope or container, and received in the DPMM office located at 301 West High St, Rm 630 in Jefferson City, MO no later than the exact opening time and date specified in the RFP. All proposals must (1) be submitted by a duly authorized representative of the offeror's organization, (2) contain all information required by the RFP, and (3) be priced as required. Hard copy proposals may be mailed to the DPMM post office box address. However, it shall be the responsibility of the offeror to ensure their proposal is in the DPMM office (address listed above) no later than the exact opening time and date specified in the RFP.
- b. The sealed envelope or container containing a proposal should be clearly marked on the outside with (1) the official RFP number and (2) the official opening date and time. Different proposals should not be placed in the same envelope, although copies of the same proposal may be placed in the same envelope.
- c. A proposal submitted electronically by a Premium registered offeror may be modified on-line prior to the official opening date and time. A proposal which has been delivered to the DPMM office, may be modified by signed, written notice which has been received by the DPMM prior to the official opening date and time specified. A proposal may also be modified in person by the offeror or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to modify a proposal shall not be honored.
- d. A proposal submitted electronically by a Premium registered offeror may be canceled on-line prior to the official opening date and time. A proposal which has been delivered to the DPMM office, may only be withdrawn by a signed, written notice or facsimile which has been received by the DPMM prior to the official opening date and time specified. A proposal may also be withdrawn in person by the offeror or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone, e-mail, or telegraphic requests to withdraw a proposal shall not be honored.
- e. When submitting a proposal electronically, the Premium registered offeror indicates acceptance of all RFP terms and conditions by clicking on the "Submit" button on the Electronic Bid Response Entry form. Offerors delivering a hard copy proposal to DPMM must sign and return the RFP cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the offeror of all RFP terms and conditions. Failure to do so may result in rejection of the proposal unless the offeror's full compliance with those documents is indicated elsewhere within the offeror's response.

#### 6. PROPOSAL OPENING

- a. Proposal openings are public on the opening date and at the opening time specified on the RFP document. Only the names of the respondents shall be read at the proposal opening. Premium registered vendors may view the same proposal response information on the state's On-Line Bidding/Vendor Registration System website. The contents of the responses shall not be disclosed at this time.
- b. Proposals which are not received in the DPMM office prior to the official opening date and time shall be considered late, regardless of the degree of lateness, and normally will not be opened. Late proposals may only be opened under extraordinary circumstances in accordance with 1 CSR 40-1.050.

#### 7. PREFERENCES

- a. In the evaluation of proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals. Such preference shall be given when quality is equal or better and delivered price is the same or less.
- c. In accordance with Executive Order 05-30, contractors are encouraged to utilize certified minority and women-owned businesses in selecting subcontractors.

#### 8. EVALUATION/AWARD

- a. Any clerical error, apparent on its face, may be corrected by the buyer before contract award. Upon discovering an apparent clerical error, the buyer shall contact the offeror and request clarification of the intended proposal. The correction shall be incorporated in the notice of award. Examples of apparent clerical errors are: 1) misplacement of a decimal point; and 2) obvious mistake in designation of unit.
- b. Any pricing information submitted by an offeror shall be subject to evaluation if deemed by the DPMM to be in the best interest of the State of Missouri.
- c. The offeror is encouraged to propose price discounts for prompt payment or propose other price discounts that would benefit the State of Missouri. However, unless otherwise specified in the RFP, pricing shall be evaluated at the maximum potential financial liability to the State of Missouri.
- d. Awards shall be made to the offeror whose proposal (1) complies with all mandatory specifications and requirements of the RFP and (2) is the lowest and best proposal, considering price, responsibility of the offeror, and all other evaluation criteria specified in the RFP and any subsequent negotiations and (3) complies with Sections 34.010 and 34.070 RSMo and Executive Order 04-09.
- e. In the event all offerors fail to meet the same mandatory requirement in an RFP, DPMM reserves the right, at its sole discretion, to waive that requirement for all offerors and to proceed with the evaluation. In addition, the DPMM reserves the right to waive any minor irregularity or technicality found in any individual proposal.
- f. The DPMM reserves the right to reject any and all proposals.
- g. When evaluating a proposal, the State of Missouri reserves the right to consider relevant information and fact, whether gained from a proposal, from an offeror, from offeror's references, or from any other source.
- h. Any information submitted with the proposal, regardless of the format or placement of such information, may be considered in making decisions related to the responsiveness and merit of a proposal and the award of a contract.
- i. Negotiations may be conducted with those offerors who submit potentially acceptable proposals. Proposal revisions may be permitted for the purpose of obtaining best and final offers. In conducting negotiations, there shall be no disclosure of any information submitted by competing offerors.
- j. Any award of a contract shall be made by notification from the DPMM to the successful offeror. The DPMM reserves the right to make awards by item, group of items, or an all or none basis. The grouping of items awarded shall be determined by DPMM based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of the State of Missouri.
- k. Pursuant to Section 610.021 RSMo, proposals and related documents shall not be available for public review until after a contract is executed or all proposals are rejected.
- l. The DPMM posts all proposal results on the On-line Bidding/Vendor Registration System website for Premium registered offerors to view for a reasonable period after proposal award and maintains images of all proposal file material for review. Offerors who include an e-mail address with their proposal will be notified of the award results via e-mail.
- m. The DPMM reserves the right to request clarification of any portion of the offeror's response in order to verify the intent of the offeror. The offeror is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.
- n. Any proposal award protest must be received within ten (10) calendar days after the date of award in accordance with the requirements of 1 CSR 40-1.050 (10).
- o. The final determination of contract(s) award shall be made by DPMM.

## 9. CONTRACT/PURCHASE ORDER

- a. By submitting a proposal, the offeror agrees to furnish any and all equipment, supplies and/or services specified in the RFP, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the RFP, amendments thereto, and any Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor's proposal including any contractor BAFO response(s), (3) clarification of the proposal, if any, and (4) DPMM's acceptance of the proposal by "notice of award" or by "purchase order." All Exhibits and Attachments included in the RFP shall be incorporated into the contract by reference.
- c. A notice of award issued by the State of Missouri does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services for the State of Missouri, the contractor must receive a properly authorized purchase order unless the purchase is equal to or less than \$3,000. State purchases equal to or less than \$3,000 may be processed with a purchase order or other form of authorization given to the contractor at the discretion of the state agency.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the DPMM or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

## 10. INVOICING AND PAYMENT

- a. The State of Missouri does not pay state or federal taxes unless otherwise required under law or regulation.
- b. The statewide financial management system has been designed to capture certain receipt and payment information. For each purchase order received, an invoice must be submitted that references the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the DPMM.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the RFP.
- e. The State of Missouri assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the state's rejection and shall be returned at the contractor's expense.
- f. All invoices for equipment, supplies, and/or services purchased by the State of Missouri shall be subject to late payment charges as provided in Section 34.055 RSMo.
- g. The State of Missouri reserves the right to purchase goods and services using the state purchasing card.

## 11. DELIVERY

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

## 12. INSPECTION AND ACCEPTANCE

- a. No equipment, supplies, and/or services received by an agency of the state pursuant to a contract shall be deemed accepted until the agency has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The State of Missouri reserves the right to return any such rejected shipment at the contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The State of Missouri's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the state may have.

### **13. WARRANTY**

- a. The contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by the DPMM, (2) be fit and sufficient for the purpose expressed in the RFP, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the state's acceptance of or payment for said equipment, supplies, and/or services.

### **14. CONFLICT OF INTEREST**

- a. Officials and employees of the state agency, its governing body, or any other public officials of the State of Missouri must comply with Sections 105.452 and 105.454 RSMo regarding conflict of interest.
- b. The contractor hereby covenants that at the time of the submission of the proposal the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

### **15. REMEDIES AND RIGHTS**

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the State of Missouri of any existing or future right and/or remedy available by law in the event of any claim by the State of Missouri of the contractor's default or breach of contract.
- b. The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Missouri of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with the State of Missouri.

### **16. CANCELLATION OF CONTRACT**

- a. In the event of material breach of the contractual obligations by the contractor, the DPMM may cancel the contract. At its sole discretion, the DPMM may give the contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the contractor must provide DPMM within 10 working days from notification a written plan detailing how the contractor intends to cure the breach.
- b. If the contractor fails to cure the breach or if circumstances demand immediate action, the DPMM will issue a notice of cancellation terminating the contract immediately.
- c. If the DPMM cancels the contract for breach, the DPMM reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the DPMM deems appropriate and charge the contractor for any additional costs incurred thereby.
- d. The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon the state for any period in which funds have not been appropriated, and the state shall not be liable for any costs associated with termination caused by lack of appropriations.

### **17. COMMUNICATIONS AND NOTICES**

Any notice to the contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, transmitted by e-mail or hand-carried and presented to an authorized employee of the contractor.

### **18. BANKRUPTCY OR INSOLVENCY**

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor must notify the DPMM immediately.
- b. Upon learning of any such actions, the DPMM reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

### **19. INVENTIONS, PATENTS AND COPYRIGHTS**

The contractor shall defend, protect, and hold harmless the State of Missouri, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

### **20. NON-DISCRIMINATION AND AFFIRMATIVE ACTION**

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:



- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, the DPMM shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the DPMM until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

## **21. AMERICANS WITH DISABILITIES ACT**

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

## **22. FILING AND PAYMENT OF TAXES**

The commissioner of administration and other agencies to which the state purchasing law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in chapter 144, RSMo. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise. Therefore offeror's failure to maintain compliance with chapter 144, RSMo may eliminate their proposal from consideration for award.

## **23. TITLES**

Titles of paragraphs used herein are for the purpose of facilitating reference only and shall not be construed to infer a contractual construction of language.

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